S.B. Civil Writ Petition No.7148/2006

LRs of Laxmichand
vs
Hari Ram & Ors.

Date of order : 5.12.2007.

HON'BLE MR. PRAKASH TATIA, J.

Mr.Sajjan Singh, for the appellant.
Mr.SS Ladrecha,]
Mr.MS Purohit], for the respondents.

<><><>

At the request of learned counsel for the petitioner, the matter has been listed in court. The writ petition itself has been heard on merit and decided at the request of learned counsel for the parties.

According to learned counsel for the petitioner there was an interim order of the trial court to maintain the status quo and the contesting respondent no.5 who is represented by learned counsel Shri MS Purohit purchased the property in dispute and submitted an application under Order 1 Rule 10 CPC and the trial court allowed that application and impleaded respondent no.5 as plaintiff in the suit. According to learned counsel for the petitioner, the petitioner has challenged the order passed on petitioner's application filed under Order 7 Rule 11 CPC also but he has not challenged the said order. However, according to learned counsel for the

petitioner,the petitioner could not have been permitted to become party because of the reason that he is not bonafide purchaser as he purchased the property during the pendency of the suit. In view of the above reasons,the order of the trial court deserves to be set aside.

I considered the submissions of learned counsel for the parties and perused the reasons given by the trail court. It is admitted position that newly added party purchased the property during the pendency of the suit and submitted application for becoming party in the suit and newly added party if has been impleaded as party in the trial court and after examining the facts of the case the trial court exercise the jurisdiction under Order 1 Rule 10 CPC as well as under Order 22 Rule 10 CPC, this discretionary order in the facts of this case is not worth interference while exercising jurisdiction under Article 227 of the Constitution of India as there cannot be any prejudice to the petitioner by impleading the subsequent purchaser as party.

In view of the above, the writ petition of the petitioner is dismissed having no merit.

(PRAKASH TATIA), J.

c.p.goyal/-